

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

FILIBERTO SOTELO,

Claimant,

v.

THE PILLSBURY CO.,

Employer,

and

LUMBERMANS MUTUAL CASUALTY
COMPANY,

Surety,
Defendants.

**IC 97-006770
98-018735**

ORDER

Filed: January 19, 2005

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant was medically stable on and after June 21, 2004 and no TTDs are owed Claimant after that date.
2. Claimant is entitled to attorney's fees incurred in seeking, preparing for, and participating in the September 24, 2004 hearing on the issue of unpaid medical reimbursements.

The issue of additional TTD payments was not unreasonably contested and no attorney's fees are awarded on that issue.

Unless the parties can agree on an amount for reasonable attorney's fees, Claimant's counsel shall, within twenty-one (21) days of the entry of the Commission's decision, file with the Commission a memorandum of attorney's fees incurred in counsel's representation of Claimant in connection with these benefits, and an affidavit in support thereof. The memorandum shall be submitted for the purpose of assisting the Commission in discharging its responsibility to determine reasonable attorney's fees in this matter. Within fourteen (14) days of the filing of the memorandum and affidavit thereof, Defendants may file a response. If Defendants object to the time expended or the hourly charge claimed, or any other representation made by Claimant's counsel, the objection must be set forth with particularity. Within seven (7) days after Defendants' counsel files the above-referenced memorandum, Claimant's counsel may file a reply. The Commission, upon receipt of the foregoing pleadings, will review the matter and issue an order determining attorney's fees.

3. Defendants shall pay interest at the statutory rate on the \$728.80 in medical reimbursements that were not paid in a timely manner.

4. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 19 day of January, 2005.

INDUSTRIAL COMMISSION

/s/_____
Thomas E. Limbaugh, Chairman

/s/_____
James F. Kile, Commissioner

/s/_____
R.D. Maynard, Commissioner

ATTEST:

/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of January, 2005 a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

DENNIS R PETERSEN
PO BOX 1645
IDAHO FALLS ID 83403-1645

ERIC S BAILEY
PO BOX 1007
BOISE ID 83701-1007

djb
